Supreme Court, U. S.
FILED
FEB 13 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 85, Original

STATE OF TEXAS, *Plaintiff*,

v.

STATE OF OKLAHOMA, *Defendant*.

MOTION OF TEXAS POWER & LIGHT COMPANY FOR LEAVE TO INTERVENE IN SUPPORT OF THE STATE OF TEXAS

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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Texas Power & Light Company, by its counsel, asks leave of the Court to intervene in support of the State of Texas in the above entitled proceeding.

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STATEMENT IN SUPPORT OF MOTION

This proceeding was commenced by the State of Texas when it filed a Complaint stating that a dispute exists as to the boundary between the State of Texas and the State of Oklahoma in the vicinity of Lake Texoma. The State of Texas specifically asks that the boundary be established as the south cut bank of the Red River as it existed prior to the construction of the Denison Dam which forms Lake Texoma. The State of Oklahoma has responded, stating that "there is an actual controversy involving a conflict of the sovereign interests" of the two States.

This dispute first arose in a proceeding before the Federal Energy Regulatory Commission (FERC), *Texas Power & Light Company*, Docket No. E-9578, which involves the question of whether Texas Power & Light Company is subject to FERC's jurisdiction.* As a result of one issue raised in this proceeding, the FERC is seeking to adjudicate the boundary between Texas and Oklahoma at the Denison Dam.

The State of Texas is interested in this issue because if there is a determination that the border between Texas and Oklahoma has shifted southward, it would result in a loss of territory by the State of Texas. Texas Power & Light Company has an entirely separate and fundamental interest in this boundary determination.

Texas Power & Light Company purchases electric energy generated at the Denison Dam. If there is a finding that the power house at the Denison Dam, which was constructed in the State of Texas, is now located in the State of Oklahoma, it would result in electric energy crossing the Oklahoma-Texas state line and entering its facilities. This passage of energy in interstate commerce would subject Texas Power & Light Company and all interconnected electric utilities within the State of Texas to the jurisdiction of the FERC rather than sole regulation by the Public Utility Commission of Texas.

Such jurisdiction would change the method of operation employed by Texas Power & Light Company and other interconnected utilities and could imperil the

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* Because no interstate energy enters or leaves the Texas Power & Light Company system, it never has been subject to the jurisdiction of FERC. As an intrastate utility, it is regulated by the Public Utility Commission of Texas.

reliability of service which these utilities render, as well as placing other burdens on their customers. For many years, the interconnected electric systems in the State of Texas have been constructed to enable them to operate most efficiently and reliably by utilizing facilities and rendering service entirely within the State of Texas. If the FERC were to achieve jurisdiction over Texas Power & Light Company, it could result in a massive disruption of this method of operation with major adverse consequences to Texas Power & Light Company and its customers.

Texas Power & Light Company agrees with the State of Texas that the construction of Denison Dam did not change in any manner the boundary between Texas and Oklahoma. The boundary remains the south cut bank of the Red River as it existed prior to the construction of the Dam.

However, as indicated, the interest of Texas Power & Light Company is quite distinct from that of the State of Texas. The State of Texas is concerned with its territorial integrity and Texas Power & Light Company with its status as a utility regulated by local authorities rather than the FERC. Consequently, Texas Power & Light Company's unique interest in this proceeding may not be adequately represented by existing parties.

The single issue before the Court, the location of the Texas-Oklahoma state line, is a basically simple one which Texas Power & Light Company does not desire to enlarge. Therefore, the granting of this motion will not delay nor unduly complicate this proceeding.

Wherefore, Texas Power & Light Company respectfully asks this Court for leave to intervene.

Respectfully submitted,

By .....

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of this Motion for Leave to Intervene on the following:

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